

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HAROLD J. STRIMBACK,)	
)	
Plaintiff,)	Case No. 1:05-cv-65
)	
v.)	Honorable Robert Holmes Bell
)	
COMMISSIONER OF)	
SOCIAL SECURITY,)	
)	<u>ORDER OF REMAND</u>
Defendant.)	
)	

This is a social security action brought under 42 U.S.C. § 405(g), seeking review of a final decision of the Commissioner of Social Security denying plaintiff's claim for disability insurance benefits (DIB). Plaintiff filed his complaint on January 26, 2005. On June 10, 2005, plaintiff filed a motion to remand this matter to the Commissioner pursuant to sentence six or sentence four of 42 U.S.C. 405(g). (docket # 10). A sentence six remand is a pre-judgment remand. The court does not affirm, modify, reverse, or rule in any way on the correctness of the administrative determination. *See Melkonyan v. Sullivan*, 501 U.S. 89, 99-100 (1991); *Faucher v. Secretary of Health & Human Servs.*, 17 F.3d 171, 174-75 (6th Cir. 1994). A sentence six remand is appropriate where there is new evidence which is material and there is good cause for failure to incorporate such evidence into the record in the prior proceeding. 42 U.S.C. §405(g); *see Cline v. Commissioner*, 96 F.3d 146, 149 (6th Cir. 1996). Plaintiff's sentence six remand request is based on new and material evidence and an administrative finding, made in connection with a separate application for social security benefits, that plaintiff was disabled one day after he was found not

disabled in this case. (*Id.* at 8). On August 10, 2005, the parties filed a stipulation expressing their agreement that this matter should be remanded to the Commissioner for consideration of the new evidence pursuant to sentence six. (docket # 15). Upon review, the court finds good cause to remand this matter to the Commissioner. Accordingly,

IT IS ORDERED that plaintiff's motion (docket # 10) is GRANTED IN PART AND DENIED IN PART. The motion for a sentence four remand is denied without prejudice. The motion for remand pursuant to sentence six of 42 U.S.C. §405(g) is granted, and matter is hereby remanded to the Commissioner for further administrative proceedings.

IT IS FURTHER ORDERED that this court retains jurisdiction. The case is administratively closed for the duration of the administrative proceedings on remand. Within 45 days after a final administrative decision, the parties shall advise the court in writing regarding whether this case should be dismissed or a new briefing schedule implemented.

DONE AND ORDERED this 11th day of August, 2005.

/s/ Joseph G. Scoville
United States Magistrate Judge